

DEFENDANT INFORMATION RELATIVE TO A CRIMINAL ACTION - IN U.S. DISTRICT COURT
 BY: ☐ COMPLAINT, ☒ INFORMATION ☐ INDICTMENT
☐ SUPERSEDING
OFFENSE CHARGED
 Title 18 U.S.C. § 371- Conspiracy to Manipulate
 the Price of a Commodity in Interstate
 Commerce.

☐ Petty
☐ Minor
☐ Misdemeanor
☒ Felony
PENALTY:
 5 years imprisonment; \$250,000 fine; 3 years of supervised
 release; \$100 special assessment.
PROCEEDING

Name of Complainant Agency, or Person (& Title, if any)

Federal Bureau of Investigation
☐ person is awaiting trial in another Federal or State
 Court, give name of court

☐ this person/proceeding is transferred from another
 district per (circle one) FRCrP 20, 21 or 40. Show
 District

☐ this is a re-prosecution of
 charges previously dismissed
 which were dismissed on
 motion of:

☐ U.S. Att'y ☐ Defense

☐ this prosecution relates to a
 pending case involving this same
 defendant

☐ prior proceedings or appearance(s)
 before U.S. Magistrate regarding
 this defendant were recorded under

 SHOW
 DOCKET NO.

 MAGISTRATE
 CASE NO.

 Name and Office of Person
 Furnishing Information on
 THIS FORM

KEVIN V. RYAN

☒ U.S. Att'y ☐ Other U.S. Agency

 Name of Asst. U.S. Att'y
 (if assigned)

Haywood S. Gilliam

 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

CHRISTOPHER JOSEPH MCDONALD

DISTRICT COURT NUMBER

CR 06 0265
DEFENDANT**IS NOT IN CUSTODY**

- 1) ☐ Has not been arrested, pending outcome this proceeding.
 If not detained give date any prior summons
 was served on above charges
- 2) ☐ Is a Fugitive
- 3) ☐ Is on Bail or Release from (show District)

IS IN CUSTODY

- 4) ☐ On this charge
- 5) ☐ On another conviction
- 6) ☐ Awaiting trial on other charges } ☐ Fed'l ☐ State
- If answer to (6) is "Yes", show name of institution

 Has detainer
 been filed?

☐ Yes
☐ No

 If "Yes"
 give date
 filed

**DATE OF
 ARREST**

Month/Day/Year

Or... if Arresting Agency & Warrant were not

**DATE TRANSFERRED
 TO U.S. CUSTODY**

Month/Day/Year

☐ This report amends AO 257 previously submitted
ADDITIONAL INFORMATION OR COMMENTS**PROCESS:**
☐ SUMMONS ☒ NO PROCESS*

☐ WARRANT Bail Amount:

If Summons, complete following:

☐ Arraignment ☐ Initial Appearance

Defendant Address:

**Where defendant previously apprehended on complaint, no new summons
 or warrant needed, since Magistrate has scheduled arraignment*

Date/Time:

Before Judge:

Comments:

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 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

MICHAEL WHALEN

DISTRICT COURT NUMBER

CR 06 0265 MHP

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 Name of Asst. U.S. Att'y
 (if assigned)

Haywood S. Gilliam

 Name of District Court, and/or Judge/Magistrate Location
 NORTHERN DISTRICT OF CALIFORNIA
 NORTHERN DISTRICT OF CALIFORNIA

DEFENDANT - U.S.

PAUL ATHA

DISTRICT COURT NUMBER

CR 06 0265

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Before Judge:

Comments:

FILED
E-Filed
06 APR 13 PM 3:04
RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

1 KEVIN V. RYAN (CABN 118321)
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3 Chief, Criminal Division

4 KESLIE STEWART (CABN 184090)
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8 Attorneys for Plaintiff

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 SAN FRANCISCO DIVISION

MHP

12 CR 06 0265

13 UNITED STATES OF AMERICA

No.

14 v.

VIOLATION: 18 U.S.C. § 371 – Conspiracy
to Manipulate the Price of a Commodity in
Interstate Commerce

15 CHRISTOPHER JOSEPH MCDONALD,
16 MICHAEL WHALEN, and
17 PAUL ATHA,

SAN FRANCISCO VENUE

18 Defendants.

19 INFORMATION

20 The United States Attorney charges:

21 1. Beginning on or about July 1, 2000, and continuing to on or about November 1,
22 2000, within the Northern District of California and elsewhere, the defendants

23 CHRISTOPHER JOSEPH MCDONALD,
24 MICHAEL WHALEN, and
25 PAUL ATHA,

26 and others known and unknown, did knowingly and intentionally engage in a conspiracy to
27 commit an offense against the United States, specifically manipulation of the price of natural gas
28 in interstate commerce in violation of Title 7, United States Code, Section 13(a)(2).

INFORMATION

1 2. In furtherance of the conspiracy and to effect the objects thereof, the defendants
2 committed the following overt acts, among others:

3 a. On or about July 27, 2000, defendant MCDONALD telephoned defendant
4 WHALEN to ensure that WHALEN would identify Cinergy as the counterparty to false Mirant
5 trades reported to Inside FERC for the August 2000 index. Defendants MCDONALD and
6 WHALEN agreed on the false gas reporting information and prices that would benefit Mirant's
7 and Cinergy's positions at the Permian Basin and the Houston Ship Channel.

8 b. On or about July 28, 2000, Defendants MCDONALD and WHALEN
9 engaged in a recorded telephone call whereby they agreed to include false trades proposed by
10 Cinergy on Mirant's revised August 2000 report to Inside FERC.

11 c. On or about July 28, 2000, Defendants WHALEN and ATHA engaged in a
12 recorded telephone call whereby they confirmed the false trades, including price and volume, that
13 were to be included in Mirant's and Cinergy's August 2000 report to Inside FERC.

14 d. On or about July 31, 2000, ATHA, under MCDONALD's supervision,
15 transmitted a spreadsheet from Mirant's offices in Atlanta, Georgia, to Inside FERC in
16 Washington, D.C., containing false trade data that defendants MCDONALD and WHALEN
17 discussed during their July 27 and July 28, 2000 telephone calls.

18 e. On or about September 29, 2000, defendant MCDONALD called defendant
19 WHALEN to ensure that WHALEN would falsely identify Cinergy as the counterparty for the
20 false trade data submitted by Mirant for the Inside FERC October 2000 index.

21 //

22 //

23 //

24 //

25 //

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27 //


28 //


1 f. On or about September 29, 2000, WHALEN spoke by telephone to an
2 editor at Inside FERC and verified the false Mirant-Cinergy trading prices and volumes submitted
3 by Mirant, as requested by MCDONALD.

4 All in violation of Title 18, United States Code, Section 371.

5 DATED:

6 KEVIN V. RYAN
United States Attorney

7 
8 EUMI L. CHOI
9 Chief, Criminal Division

10
11 (Approved as to form: 
12 AUSA K. STEWART